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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,878	07/31/2003	John R. Hind	RSW920030128US1	1815
36736	7590	02/16/2006	[REDACTED]	EXAMINER
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			AHLUWALIA, NAVNEET K	
			[REDACTED]	ART UNIT
				PAPER NUMBER
			2166	

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/631,878	HIND ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Navneet K. Ahluwalia	2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-31 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/09/2003.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. The application has been examined. Claims 1 – 31 are pending in this office action.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 26 – 30 recite the limitation "the method" in the first line for each claim.

There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 31 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 31 is rejected because the language of claim 31 in view of the definition of the computer program product in a computer readable medium from the detailed description of the embodiments raises a question as to whether the result in a practical application produces a concrete useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

If the claim language were changed to "computer readable storage medium" it would overcome the 35 USC 101 rejections.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 8, 19 – 22, 24 – 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoshi et al. ('Hoshi' herein after) (US 2002/0083043 A1).

With respect to claim 1,

Hoshi discloses a system for collecting information about a user of an electronic consumable, comprising: an electronic consumable displayed using an apparatus, the apparatus having an input device and a sensor; wherein the sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable (page 3 paragraph 0058 and 0059, Hoshi).

With respect to claim 2,

Hoshi discloses the system of claim 1, wherein the sensor is a device chosen from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor (paragraphs 0084 – 0085 & 0239, Hoshi).

With respect to claim 3,

Hoshi discloses the system of claim 1, wherein the information collected is reported to a remote location (Figure 12 and paragraph 0144, Hoshi).

With respect to claim 4,

Hoshi discloses the system of claim 1, wherein by activating the input device, the user causes the information to be collected (paragraph 0144 – 45, Hoshi).

With respect to claim 5,

Hoshi discloses the system of claim 1, wherein the user activates the sensor by manipulating an object of the electronic consumable, and wherein embedded code of the object causes the information to be recorded in response to the user manipulating the object (paragraph 0146 – 0147, Hoshi).

With respect to claim 6,

Hoshi discloses the system of claim 1, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function (Figure 7 & 10, Hoshi).

With respect to claim 7,

Hoshi discloses the system of claim 1, wherein the information is analyzed using data mining techniques (paragraph 0140, Hoshi).

With respect to claim 8,

Hoshi discloses the system of claim 1, wherein the user can configure the collection and reporting of information (paragraph 0154, Hoshi).

With respect to claim 19,

Hoshi discloses a method of collecting information about a user of an electronic consumable, comprising the steps of: storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable; in response to a user action, collecting information about the user (page 3 paragraph 0058 and 0059, Hoshi), wherein the information is collected according to embedded code in an object of the electronic consumable (paragraph 0146 – 0147, Hoshi); and reporting the information across a network (Figure 12 and paragraph 0144, Hoshi).

With respect to claim 20,

Hoshi discloses the method of claim 19, wherein the reported information is analyzed using data mining techniques (paragraph 0140, Hoshi).

With respect to claim 21,

Hoshi discloses the method of claim 19, wherein the information is collected by sensors of the apparatus (paragraph 0140, Hoshi).

With respect to claim 22,

Hoshi discloses the method of claim 21, wherein the sensors are selected from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor (paragraphs 0084 – 0085 & 0239, Hoshi).

With respect to claim 24,

Hoshi discloses the method of claim 19, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function (Figure 7 & 10, Hoshi).

With respect to claim 25,

Hoshi discloses a system for collecting information about a user of an electronic consumable, comprising: means for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable (paragraph 0058, Hoshi); in response to a user action, means for collecting information about the user (paragraph 0059, Hoshi), wherein the information is collected according to embedded code in an object of the electronic consumable (paragraph 0146 – 0147, Hoshi); means for reporting the information across a network (Figure 12 and paragraph 0144, Hoshi).

With respect to claim 26,

Hoshi discloses wherein the reported information is analyzed using data mining techniques (paragraph 0140, Hoshi).

With respect to claim 27,

Hoshi discloses wherein the information is collected by sensors of the apparatus (paragraph 0140, Hoshi).

With respect to claim 28,

Hoshi discloses wherein the sensors are selected from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor (paragraphs 0084 – 0085 & 0239, Hoshi).

With respect to claim 30,

Hoshi discloses wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function (Figure 7 & 10, Hoshi).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 9 – 18, 23, 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshi et al. ('Hoshi' herein after) (US 2002/0083043 A1) as applied to claims 1 – 8, 19 – 22, 24 – 28 and 30 above, and further in view of Fedorovskaya et al. ('Fedorovskaya' herein after) (2004/0101212 A1).

With respect to claim 9,

Hoshi discloses a system for collecting information about a user of an electronic consumable, comprising: an apparatus capable of displaying an electronic consumable; an electronic consumable comprising documents and objects; wherein the documents and objects include instructions for automatically monitoring and reporting user behavior; and wherein a user action triggers the monitoring and reporting of the user behavior (paragraphs 0058, 0059 and 0239, Hoshi).

Hoshi does not explicitly disclose monitoring and reporting user behavior as claimed.

Fedorovskaya teaches monitoring and reporting of user behavior (paragraph 0036 and 0047, Fedorovskaya).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the users (paragraph 0062, Fedorovskaya). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, Fedorovskaya).

With respect to claim 10,

Fedorovskaya teaches wherein the user behavior reported comprises how long the user looked at a first page of the document (paragraph 0042, 0047, Fedorovskaya).

With respect to claim 11,

Hoshi discloses wherein the user behavior reported comprises the time between the user opening an object and closing the object (paragraph 0144, Hoshi).

With respect to claim 12,

Hoshi discloses further comprising a sensor as part of the apparatus (paragraph 0239, Hoshi), wherein the sensor collects biological information about the user (paragraph 0043 – 47, Fedorovskaya).

With respect to claim 13,

Fedorovskaya teaches wherein the sensor is an infra red sensor, and wherein the biological information comprises the body temperature of the user as determined from the sensor (paragraph 0043, Fedorovskaya).

With respect to claim 14,

Fedorovskaya teaches wherein the sensor is a camera, and wherein the biological information comprises facial expressions of the user (paragraph 0044 and 0046, Fedorovskaya).

With respect to claim 15,

Fedorovskaya teaches wherein the facial expressions are classified according to a facial expression recognition algorithm (paragraph 0068, Fedorovskaya).

With respect to claim 16,

Hoshi discloses wherein the user behavior is analyzed using data mining techniques (paragraph 0140, Hoshi).

With respect to claim 17,

Hoshi discloses wherein the objects can only be stored in containers that allow embedded code of the object to function (Figure 7 & 10, Hoshi).

With respect to claim 18,

Hoshi discloses wherein the user can configure the collection and reporting of information by the system (paragraph 0154, Hoshi).

With respect to claim 23,

Hoshi discloses the method of claim 21, wherein the information includes biological information about the user (paragraph 0239, Hoshi).

Hoshi does not explicitly disclose the biological information as claimed.

Fedorovskaya teaches the biological information (paragraph 0043 – 47, Fedorovskaya).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the users (paragraph 0062, Fedorovskaya). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, Fedorovskaya).

With respect to claim 29,

Hoshi discloses the method of claim 27, wherein the information includes biological information about the user (paragraph 0239, Hoshi).

Hoshi does not explicitly disclose the biological information as claimed.

Fedorovskaya teaches the biological information (paragraph 0043 – 47, Fedorovskaya).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the users (paragraph 0062, Fedorovskaya). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, Fedorovskaya).

With respect to claim 31,

Hoshi discloses a computer program product in a computer readable medium, comprising the computer implemented steps of: first instructions for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable (paragraph 0058, Hoshi); in response to a user action, second instructions for collecting information about the user (paragraph 0059, Hoshi), wherein the information is collected according to embedded code in an object of the electronic consumable (paragraph 0146 – 0147, Hoshi); third instructions for reporting the information across a network (Figure 12 and paragraph 0144, Hoshi); wherein the information includes biological information about the user.

Hoshi does not explicitly disclose the biological information as claimed.

Fedorovskaya teaches the biological information (paragraph 0043 – 47, Fedorovskaya).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the

users (paragraph 0062, Fedorovskaya). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, Fedorovskaya).

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2204/0181457 A1 by Biebesheimer et al. disclose in paragraphs 0047 – 0048 the use of emotive data to aid in buyer's selection. It also teaches collection of this data, which includes changes in facial expressions, voice and body temperature.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet K. Ahluwalia whose telephone number is 571-272-5636. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam T. Hosain can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Navneet K. Ahluwalia  
Examiner  
Art Unit 2166

Dated: 02/13/2006



MOHAMMAD ALI  
PRIMARY EXAMINER

A handwritten signature of "Mohammad Ali" is written over a printed name. The printed name "MOHAMMAD ALI" is in a bold, sans-serif font, with "PRIMARY EXAMINER" printed below it in a smaller, all-caps font.